

APPENDIX B to East Reserve Project ROD

Section 404(b)(1) Evaluation

CEMVP-CO-R (MVP-2005-110-JKA)

APPLICANT: Mittal Steel USA – Minorca Mine, Inc. (Mittal), East Reserve Project

APPENDIX B

Section 404(b)(1) Evaluation

PART I - INTRODUCTION

This document includes an environmental assessment, as required by the National Environmental Policy Act; the District Engineer's statement of findings, including a determination regarding compliance with the Section 404(b)(1) guidelines (if appropriate) and the need for an environmental impact statement; and the District Engineer's determination as to whether or not the project is contrary to the public interest. (NOTE: The Corps of Engineers permit regulations are at Title 33 of the Code of Federal Regulations {CFR}, Parts 320 through 330.)

A public notice describing the project and its location is attached (Attachment A).

PART II - ENVIRONMENTAL ASSESSMENT

PROJECT PURPOSE.

The purpose of the project is to mine taconite ore from the East Reserve to meet market demands and extend the production life of the Minorca taconite production facility beyond what would be provided by taconite ore currently provided from the Laurentian Mine.

PARTICIPANTS IN THE PUBLIC INTEREST REVIEW.

The public notice was sent to all known interested parties, including the appropriate Federal, State, and local agencies. A public notice mailing list is included in the permit file. A summary of comments follows:

U.S. Environmental Protection Agency (USEPA). The USEPA provided comments on the Draft EIS and the Final EIS. Responses to the comments on the Draft EIS were provided in the Final EIS. However, USEPA comments on the Final EIS (see USEPA comment letter in Appendix A of the Record of Decision (ROD)) requested additional information on several issues that the EPA believed were not adequately addressed in the Final EIS. Those issues and the Corps responses are provided in Paragraph 10(B) of the ROD.

U.S. Fish and Wildlife Service (USFWS). The USFWS provided comments on the Draft EIS. Responses to the comments on the Draft EIS were provided in the Final EIS. The

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Corps requested formal consultation with the USFWS regarding two threatened species that occur in the East Reserve project area. Those two species are the gray wolf and the Canada lynx. The USFWS prepared a Biological Opinion (BO) and submitted it to the Corps on February 21, 2007 (see Appendix D of the ROD). The BO estimated the incidental take of the gray wolf and the Canada lynx for the East Reserve project. In addition, the BO included non-discretionary terms and conditions and conservation recommendations.

Minnesota Department of Natural Resources (MnDNR). The Corps and the MnDNR prepared a joint federal/state EIS for the East Reserve project. The MnDNR was the lead state agency. As such, the MnDNR did not provide formal comments on the project documents. Instead, the MnDNR comments were addressed directly with the Corps and Mittal as the project was reviewed and the EIS was being prepared.

Minnesota Pollution Control Agency (MnPCA). The MnPCA cooperated with the MnDNR and the Corps during preparation of the joint federal/state EIS. As such, the MnPCA did not provide formal comments on the project documents. Instead, the MnPCA comments were addressed directly with the MnDNR, the Corps, and Mittal as the project was reviewed and the EIS was being prepared.

Minnesota State Historic Preservation Officer (SHPO). The SHPO provided comments on the Draft EIS. In response to the comments, the Corps required Mittal to conduct a Phase I archaeological survey and a historic mining landscape literature survey of the East Reserve site. The results of the surveys did not indicate the presence of cultural resources or historic mining features on the site. The Corps provided a letter to the SHPO on January 12, 2007, stating that the Corps had determined that no historic properties would be affected by the project. The SHPO did not respond to that letter, and did not provide any comments on the Final EIS.

City of Biwabik. The City of Biwabik provided comments on the Draft EIS. Those comments expressed concern regarding the potential for the East Reserve project to impact the City's municipal water supply. Responses to the comments were provided in the Final EIS. The City did not provide comments on the Final EIS.

Fond du Lac Band of Lake Superior Chippewa (FDL Band). The FDL Band provided comments on the Draft EIS. Those comments were regarding the issues of water quality and its impact on wild rice, relocation of County Road 715 and access to the Pike River, increased water discharges (from pit dewatering) and changes to water quality regarding the impact to downstream systems, the location of compensatory wetland mitigation, cumulative impacts, and the potential for earth moving activities in the 1854 Treaty ceded territory to impact cultural resources. Responses to these comments were provided in the Final EIS. In addition, the Corps provided a letter to the FDL Band on January 12, 2007, stating that the Corps had determined that no historic properties would be affected by the

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project. The FDL Band did not respond to that letter, and did not provide any comments on the Final EIS.

ALTERNATIVES KEY.

Throughout the remainder of Part II of this document, the proposed project and its alternatives will be identified according to the following key:

P = Project as described in the public notice (or as subsequently modified).

D = Denial of the permit.

ALTERNATIVES NOT EVALUATED.

The location of mining operations is controlled to a large extent by the location and geology of the ore deposit, ore quality and distribution. These factors dictate the specific location of the mine pits and stockpiles. The East Reserve was chosen because of the quality and location of the ore which is compatible with the Minorca facility needs, including economic considerations. No complete alternative to the proposed project (other than the no action alternative) was evaluated in the Draft EIS (see Chapter 2.5). Therefore, no other alternatives other than the proposed project and the no action alternatives will be evaluated below.

MITIGATION AND THE SECTION 404(B)(1) RESTRICTIONS ON DISCHARGE.

Guidelines issued by the USEPA pursuant to Section 404(b)(1) of the Clean Water Act restrict discharges of dredged or fill material under certain circumstances (see 40 CFR 230.10). These circumstances include specified types of environmental harm that would be caused by the discharge under review.

The guidelines also restrict discharges when there are feasible, less environmentally-damaging alternatives available. In general, this portion of the guidelines corresponds to the definition of mitigation found in the guidelines issued by the Council on Environmental Quality to implement the National Environmental Policy Act (see 40 CFR 1508.20). The policies and procedures for implementing the 404(b)(1) guidelines were set forth in a Mitigation Memorandum of Agreement (MOA) issued by the USEPA and the Corps on February 7, 1990. According to the MOA, "The Corps will strive to avoid adverse impacts and offset unavoidable adverse impacts to existing aquatic resources, and for wetlands, will strive to achieve a goal of no overall net loss of values and functions." To carry out this policy, the Corps will, in general, evaluate Section 404 applications by gathering and reviewing all information on a project, including potential

mitigation, at the same time. Then the Corps makes the following sequence of determinations:

1) Avoidance - The Corps first makes a determination that potential impacts have been avoided to the maximum extent practicable. To determine the availability of alternatives that would avoid impacts, one of the following two criteria must be applied:

a) If the project is in a special aquatic site (such as a wetland), and if the project does not need to be in or near the special aquatic site to fulfill its basic purpose (i.e., the project is not "water dependent"), then the Corps is required to assume that there are practicable alternatives that do not involve special aquatic sites. To overcome this presumption, the applicant must clearly demonstrate to the Corps that practicable alternatives are not available. If the presumption is not overcome, the Corps must deny the permit application.

b) If the project is not in a special aquatic site and/or is water dependent, the Corps is not required to assume that there are practicable upland alternatives. However, if the Corps identifies such alternatives, the applicant must clearly demonstrate that they are not feasible. If such a demonstration cannot be made, the Corps must deny the permit application.

2) Minimization - The Corps will next mitigate unavoidable impacts, to the extent appropriate and practicable, by requiring steps to minimize those impacts.

3) Compensation - Finally, the Corps will mitigate unavoidable impacts, to the extent appropriate and practicable, by requiring steps to compensate for aquatic resource values.

In determining "appropriate and practicable" measures to offset unavoidable impacts, such measures should be appropriate to the scope and degree of those impacts and practicable in terms of cost, existing technology, and logistics in light of overall project purposes. The Corps will give full consideration to the views of the resource agencies when making this determination.

The following is a summary of the mitigation sequence as it pertains to the proposal (Alternative P) and, if applicable, its alternatives (A1, A2, etc.). If denial of the permit (Alternative D) is not specifically addressed, the reader may assume that no discharge subject to Section 404(b)(1) sequencing would result from such action.

Avoidance.

The purpose of this project is to mine taconite ore from the East Reserve. This is not a water-dependent activity, because taconite mining does not need to be located within waters or wetlands to fulfill its basic purpose. Furthermore, the project site

contains wetlands, which are special aquatic sites. Therefore, the Corps must assume that there are practicable alternatives available that would avoid wetland impacts. However, given that a mine is required to be located where ore is identified, and given the nature and distribution of wetlands on the project site, and given the size and depth of the taconite ore deposit to be mined, it is not practicable to entirely avoid all wetland impacts and mine the East Reserve deposit.

Minimization.

A total of 55 wetlands were delineated in and near the over 900 acre project footprint. Those wetlands comprise an area of 356.69 acres (see Table 3-10 in the Draft EIS). Of those wetlands, all but six (Wetland ID numbers 9, 10, 38, 43, 44, and 49) would be either directly impacted by excavation or filling or indirectly impacted hydrologically by the proposed East Reserve project (see Tables 4-6 and 4-7 in the Draft EIS). The total direct and indirect wetland impact for the project would be 122.88 acres. Given that a mine is required to be located where ore is present, and given the size and depth of the taconite ore deposit to be mined, minimization of wetland impacts over the ore is not practicable. However, wetland impacts for the stockpile areas and the haul road have been minimized. Two stockpiles separated by a drainage corridor with adjacent wetlands have been designed instead of one large, continuous stockpile, and the haul road alignment was proposed to minimize that area of wetlands to be crossed.

Compensation.

It is estimated that 93.91 acres of wetlands would be directly impacted by filling or excavation. In addition, it is estimated that 28.97 acres of wetlands would be indirectly impacted hydrologically. As wetland replacement, Mittal shall debit the final 103.6 acres that it owns from the wetland bank in Section 23, T. 48N., R. 27W., Aitkin County, Minnesota. Documentation of the debits from the bank shall be provided to the Corps within 30 days of the date that they are debited. As compensation for the remaining 19.28 acres of authorized direct and/or indirect wetland impacts (drained, filled, and/or excavated wetlands) for the East Reserve project, Mittal shall: prepare a detailed compensatory wetland mitigation plan (Mitigation Plan); submit the Mitigation Plan to the Corps for review and approval within six years of the date of the Section 404 permit for the East Reserve project or at least one year before the final 19.28 acres of authorized wetland impacts occur, whichever occurs first; and conduct the Corps-approved Mitigation Plan to replace the lost functions and values for impacts to the final 19.28 acres of wetland impacts. The Mitigation Plan shall provide for a site(s) within Bank Service Area 1 as defined in Figure 2 of the Draft “St. Paul District Compensatory Mitigation Policy for Minnesota” dated April 2005, to be considered “in place.” Mitigation within the Embarrass River watershed shall be proposed, if practicable. The Mitigation Plan shall provide for the restoration/creation of shrub swamp (Type 6 wetland) for the mitigation to be considered “in kind.” For a summary of all elements of

Sec. 404(b)(1) compliance (including the alternatives criteria discussed above), see the matrix that follows the list of Technical Evaluation Factors.

GENERAL PUBLIC INTEREST FACTORS.

IMPACT KEY:

B = Beneficial effect.

A = Adverse effect.

0 = No effect.

NOTE: The absence of narrative under any heading with a "B" or "A" in the parenthesis indicates that, although there would be an impact, it would be a very minor one. If assessing more than one alternative, the impacts for each alternative will be shown in separate parentheses. However, if none of the alternatives would have an impact (either beneficial or adverse) on a given factor, a single (0) will be used after that factor.

Noise levels. D(B) Mining and its associated noise at the Laurentian pit would eventually cease because the ore would be depleted. P(A) Mining and its associated noise would be relocated from the Laurentian pit to the East Reserve pits, and the operation would continue at approximately the existing production level for approximately another 18 years. The noise levels would remain approximately the same as for the current mining operation in the Laurentian pit.

The noise analysis in the Draft EIS found that the nearest noise receptors (residences) to the East Reserve site are farther away than the nearest noise receptors to the Laurentian pit. Therefore, it is assumed that the potential for noise effects on those residences are less than those evaluated for the Laurentian EIS. Further, because the noise effects from the Laurentian mining activities were determined to be insignificant, it is assumed that potential noise effects from activities at the East Reserve would be similarly insignificant.

Aesthetic values. D(B) Mining would cease at the Laurentian pit and reclamation would be conducted. P(A) Over 900 acres of uplands and wetlands would be disturbed for the mine pits, stockpiles, and the haul road. However, approximately 25 percent of that area has been previously disturbed by past mining activities (stockpiles, tailings basins, and roads).

Recreation. (0)

Transportation. (0)

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Public health. (0) The project should not cause a substantial adverse impact to public health.

Safety. (0) The public will be restricted from the project area. The project should not cause a substantial adverse impact to public safety.

Community growth. D(A) The Laurentian pit would eventually cease operation because the ore would be depleted. Personnel employed by the mine and the Minorca Processing facility would be unemployed, and many would likely move away from the area. P(B) Employment for workers at the mine and processing plant would continue for approximately 18 additional years.

Business/home relocations. (0) No homes or businesses would be relocated.

Existing/potential land use. (0) Approximately 25 percent of the East Reserve project area has previously been impacted by past mining activities. At the time those areas were impacted, State of Minnesota reclamation requirements were not in place. At the conclusion of mining at the East Reserve site, the mine and stockpiles will be reclaimed, which would be a net benefit to those areas that have been impacted but not reclaimed. The project is located in an area that has a long mining history. Abandoned and active open pits, stockpiles and tailings basins are numerous in the Mesabi Iron Range. The proposed project will not be inconsistent with adjacent land uses.

Property values. (0)

Tax revenues. D(A) Mining would cease at the Laurentian pit and taconite processing would cease at the Minorca processing plant. Mittal and the unemployed workers would not be contributing to tax revenues. P(B) Mining would shift from the Laurentian pit to the East Reserve pits, and taconite processing would continue at the Minorca processing plant for approximately another 18 years. Mittal and its employees would continue to pay taxes.

Public facilities and services. (0)

Employment. D(A) The Laurentian pit would eventually cease operation because the ore would be depleted. Personnel employed by the mine and the Minorca Processing facility would be unemployed. P(B) Employment for workers at the mine and processing plant would continue for approximately 18 additional years.

Business activity. D(A) The Laurentian pit would eventually cease operation because the ore would be depleted. Personnel employed by the mine and the Minorca Processing facility would be unemployed, and many would likely move away from the area. Businesses in the area would be adversely impacted by decreased demand for goods and services. P(B) Mining would shift from the Laurentian pit to the East Reserve pits, and

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taconite processing would continue at the Minorca processing plant for approximately another 18 years. Local and regional demand for goods and services would continue.

Farmland/food supply. (0) The project would not impact any agricultural lands.

Flooding. (0)

Energy. (0)

Mineral needs. D(A) The Laurentian pit would eventually cease operation because the ore would be depleted. The production of taconite pellets at the Minorca processing plant would cease. Therefore, a reduction in the raw materials necessary to manufacture steel would result. P(B) Mining would shift from the Laurentian pit to the East Reserve pits, and taconite processing would continue at the Minorca processing plant for approximately another 18 years. Production of the raw material (taconite pellets) to manufacture steel would continue.

Air quality. D(B) The Laurentian pit would eventually cease operation because the ore would be depleted. The production of taconite pellets at the Minorca processing plant would cease. Therefore, air emissions associated with the mine and processing plant would cease. P(A) Much of the emissions generated from the proposed project would be fugitive dust created by: truck traffic along the unpaved haul road to the processing plant; wind erosion of exposed areas and stockpiles; material handling; and blasting. Since the East Reserve Mine would replace operations at the Laurentian Mine, the change in impacts from the emissions generated from the East Reserve would be primarily a change in location rather than in degree, however those air emissions would continue for approximately another 18 years. Mitigation measures currently used by Mittal for the Laurentian operation would be continued for the East Reserve operation. It is expected that the East Reserve project would not cause St. Louis County to exceed the National Ambient Air Quality Standards.

Terrestrial habitat. D(B) The Laurentian pit would eventually cease operation because the ore would be depleted. The Laurentian mine and its stockpiles would be reclaimed. P(A) Approximately 800 acres of upland area, approximately 25 percent previously impacted by mining activities, would become open pits, stockpiles, and a haul road. Those areas would be reclaimed according to State of Minnesota rules and in the spirit of the Laurentian Vision at the completion of the project.

Aquatic habitat. (NA)

Habitat diversity and interspersions. D(B) The Laurentian pit would eventually cease operation because the ore would be depleted. The Laurentian mine and its stockpiles would be reclaimed, thereby providing additional upland habitat. P(A) The East Reserve

project site provides both upland and wetland habitat. Development of the upland portion would decrease available terrestrial habitat. The wetland fill proposal and offsite mitigation bank wetland credit proposal and the additional, future wetland mitigation plan would result in a loss of wetland habitat in the Embarrass River and Pike River subwatersheds, but would not result in an overall loss of wetland habitat.

Water quality. D(B) If the East Reserve is not developed for mining, the water quality of the area surface water would remain at current conditions until such time that ore at the Laurentian Mine is depleted and the current mine dewatering discharges cease. Upon cessation of mining, dewatering discharges would cease and the water quality of the receiving streams would gradually return to pre-mining conditions. P(A) The East Reserve mining activities, as proposed, will not generate any sanitary or municipal wastewater discharges. The primary source of industrial wastewater associated with the mining and stockpiling activities will be mine pit dewatering activities during active mining. Stormwater discharges will also occur, however these will be mitigated by the implementation of stormwater best management practices (BMPs).

The water quality of the proposed receiving water bodies are not anticipated to be beneficially or detrimentally affected with regard to discharges from dewatering. The quality of water to be discharged from the East Reserve is expected to be comparable to that currently discharged from the Laurentian pit and is therefore expected to be similar to the quality of the receiving waters for Total Suspended Solids (TSS), pH, conductivity, and chloride levels.

Nitrogen based compounds are used in explosives during mining activities and some residual nitrogen will most likely remain after detonation of explosives. BMPs would be required to reduce and prevent nitrogen from being released into the environment. With proper management the proposed discharges are not expected to be significant sources of nitrogen or phosphorus to downstream waters.

No significant impacts are expected from chemical and/or biological oxygen demand since the discharges are expected to be adequately oxygenated and the mine pits receiving the discharges are several hundred feet deep. BMPs would ensure negligible changes in water quality in the receiving streams and water bodies.

Water supply. D(0) P(A) Modifications will be required to the City of Biwabik's raw water intake as the water level decreases in the Canton pit (the source of the City of Biwabik's water supply). The water level in the Canton pit will decrease as a result of pumping to dewater Mittal's East Pit #2 to enable mining. Section 4.6.1.2.1 of the Draft EIS discusses these changes in detail. Below an elevation of 1,355 feet, more substantial changes to the intake will be required. Change in water quality as the water level in the pit decreases was discussed in Section 4.6.1.2.1 of the Draft EIS. In the past, the existing water treatment plant effectively treated water from the Canton pit at an elevation of 1,355. Therefore, it is assumed that the plant will be able to treat water from the pit at least until it reaches the 1,355 elevation. If water quality changes as the water level drops

below the 1,355-foot elevation, a change in the treatment process may be required. Such changes may include switching the type of chemicals used or a new type of pretreatment or filtration system. However, an increase in filter capacity would not be required. Increasing the filter capacity would increase the quantity of water the treatment plant can effectively treat, but it would not address changes in water quality. As stated in Section 4.6.1.2.1 of the Draft EIS, a detailed contingency plan is important to ensure an uninterrupted water supply of equal quality and quantity to the City's current supply. The Contingency Plan will establish a monitoring schedule for water elevation and quality that will be used to determine changes in the water supply and will establish either water levels and/or quality characteristics that would prompt specific mitigation actions for the raw water intake or treatment process. Mittal is developing a contingency plan with the City of Biwabik for inclusion into the MNDNR Water Appropriation Permit. The contingency plan is being prepared for the East Reserve Project to mitigate negative impacts to the City's water supply from dewatering.

Groundwater. D(B) If the East Reserve is not developed, mining at the Laurentian Mine would continue for several years until all of the ore resource that can be feasibly mined is removed. This continued mining would require dewatering that would influence the local groundwater conditions near the currently active mine. Groundwater flow in the vicinity of the Laurentian Mine would continue to be toward and into the dewatered pit. Once the mining was ceased in the Laurentian Mine, dewatering would discontinue, and the pit would be expected to fill with groundwater and surface water runoff over time. Eventually, the water level in the Laurentian Mine would stabilize at an elevation near the natural groundwater elevation of the surficial aquifer(s) and the Biwabik Iron Formation. P(A) As mining begins, the overburden would be stripped off and the rate of dewatering would increase. As mining into the Biwabik Iron Formation ensues and the East Reserve Mine deepens, the depth of dewatering would similarly increase. Unsaturated aquifer conditions would be expected to develop near the proposed mine in the upper part of the Biwabik Iron Formation as groundwater levels are lowered in response to the dewatering. This would be expected to result in downward vertical gradients between the aquifer(s) in the overburden and the Biwabik Iron Formation. The directions of groundwater flow in the Biwabik Iron Formation would be expected to slope toward the proposed mine from the McKinley, Canton and Mary Ellen pits. As the proposed mine is excavated to its ultimate planned depth and extent, the local groundwater levels of the Biwabik Iron Formation would be near the bottom of the mine. Overburden groundwater would flow into the mine in response to the hydrologic gradient created as a result of dewatering. As dewatering ceases at the end of mining, groundwater levels in the aquifers would rebound by gradually rising to an equilibrium state.

Soils. D(0) P(A) The texture of the majority of the soils at the site is mapped as loam by the St. Louis County Soil Survey (currently unpublished), which make up 72 percent of the proposed project area. Nearly one-quarter of the project area (23 percent) is mapped

as mine features such as dumps and pits or associated cut and fill areas on the soil survey. Approximately 2.5 percent of the project site (~20 acres) is mapped with sandy soils. The remaining 2.5 percent of the site is mapped as mucky peat and water. Soils, exposed by construction, would be subject to erosion, however, the use of BMPs will minimize this occurrence.

Shoreline processes. (0)

Wetlands. D(0) P(A) The project would require dredging or discharging fill material into an estimated 93.91 acres of wetlands (direct impacts). The direct wetland impacts by acreage, wetland type, reason for impact, and major watershed are shown in Table 4-6 in the Draft EIS. In addition, the project would indirectly impact another 28.97 acres of wetlands as a result of changes to watershed areas and groundwater drawdown (see Table 4-7 in the Draft EIS).

Wetlands comprise nearly 10 percent of the habitat cover types on the site. The most common wetlands are shrub swamps (Type 6 wetlands) dominated by speckled alder (*Alnus rugosa*) and lesser amounts of willow species (*Salix spp.*). The next most common types of wetlands are shallow to deep marshes (Type 3, Type 4, or Type 5 wetlands).

The permittee will provide compensatory wetland mitigation at a 1:1 ratio by debiting the final 103.6 acres of wetland mitigation bank credits that it owns in Aitkin County, Minnesota. In addition, the permittee is required to prepare and submit to the Corps a compensatory wetland mitigation plan to provide the additional needed compensation for the remaining 19.28 acres of wetland impact. After the mitigation plan is approved by the Corps, the permittee will be required to execute the plan. The plan will need to be submitted to the Corps by the end of year 6, or at least one year before the final 19.28 acres of wetland impacts would occur, whichever is sooner.

The proposed compensatory wetland mitigation will result in the creation, restoration, and enhancement of wetlands in a rough proportionality to the project impact, considering both the nature of and the extent of the impact.

Secondary and cumulative effects. D(0) P(A) Cumulative impacts analyses are presented in the Draft EIS. Other actions with potential for cumulative effect are identified in Chapter 2.6; cumulative effects to wetlands are discussed in Chapter 4.2.3.2 and Appendix M; and cumulative impacts to wildlife habitat loss/fragmentation are discussed in Chapter 4.8, based upon an Emmons and Olivier Resources Inc. study dated May 2006. The analyses address the historic landscape conditions; the changes that have occurred as a result of past and present actions; how the proposed project, with the proposed mitigation, would impact the existing conditions; and additional impacts from reasonably foreseeable future actions.

Wildlife. Effects on habitat loss, habitat fragmentation, and wildlife motility (movement) and travel corridor obstruction could potentially occur. The Mesabi Iron Range formation was assumed to be a travel corridor barrier due to all of the past and present mining activity. Undeveloped areas crossing over or transversely arranged across the formation were defined as gateways or travel corridors for movement through or over the formation. Larger areas of undeveloped habitat surrounding the formation with natural vegetative cover were defined as Roadless Blocks (of land) in accordance with parameters set by The Nature Conservancy. Aerial imagery and other Geographic Information System (GIS) data and maps were used as a supplement to further define habitats and corridors. A GAP land cover analysis was performed to define the land cover and ultimately the habitat blocks and travel corridors

The study determined and mapped 13 travel corridors transecting across the approximately 100 mile long Mesabi Iron Range formation. Each travel corridor was evaluated for potential future actions. Travel Corridor #8 shown on page 15 of the study report encompasses the East Reserve site and the immediate surrounding area. Corridor #8 is qualitatively ranked as “likely very important” as a travel corridor connecting a large habitat block to the north to smaller blocks of habitat on the south side of the East Reserve site. The East Reserve site is identified as a future impact that will cause “direct loss” of this habitat corridor, resulting in the possible diminishment of habitat quality to the north side habitat block through the formation of a formidable barrier to wildlife movement. Indirect habitat losses or changes could result because a corridor of genetic interchange, population sink-source movement, and habitat continuity will be obstructed.

Separation of the mining area into two pits and separating the stockpile areas to maintain the existing drainageway to the Belgrade Sink serves to minimize the impact on the wildlife travel corridor. The area between the stockpiles complements the topography immediately north of the site to maintain a defined travel corridor and facilitates wildlife movement.

Wetlands. The cumulative effects on wetlands in the project area were studied and the results published in the Cumulative Wetland Effect Analysis report included in Appendix M of the Draft EIS. Several primary wetland functions are directly related to watershed processes so the cumulative analysis was performed on a watershed basis. The project site is located primarily in the Embarrass River subwatershed of the St. Louis River Watershed. The proposed haul road route lies within the Pike River subwatershed of the Vermilion River Watershed.

There are 38,946 acres of wetlands and 668 acres of deepwater habitat predicted to be present in the foreseeable future in the Embarrass River subwatershed, comprising 33.8 and 0.6 percent of the land area, respectively. This represents a decrease of 134 acres of wetland and an increase of 275 acres of deepwater habitats compared to existing conditions. This represents a 0.1 percent decrease in wetlands from existing conditions and a 1.4 percent decrease in wetlands from pre-settlement conditions. The abandoned mine pits result in a 0.3 percent increase in deepwater habitats over existing conditions and a 0.6 percent increase over pre-settlement conditions.

Changes in wetland acreage will be caused primarily by the projected impacts to 122.88 acres of wetland for the East Reserve project. In addition, there are projected to be 22 acres of wetland impacts for transportation projects. Upon completion of the East Reserve project, there will be an additional 275 acres of deepwater habitat established when the mine pits refill with water, a net increase deepwater habitat area in the Embarrass River subwatershed.

There are 8,790 acres of wetlands predicted to be present in the foreseeable future in the Pike River subwatershed, comprising 36.1 percent of the land area. This is a decrease of less than 0.1 percent from existing conditions and an increase of 0.2 percent from pre-settlement conditions. The East Reserve project proposes to impact about 7 acres of wetlands in the subwatershed. The MnDOT identified a potential bridge crossing that will impact less than one acre of wetland. The St. Louis County Public Works Department did not identify any future impacts in the subwatershed and there are no known agricultural or municipal projects for the foreseeable future in the subwatershed.

Wetland mitigation is discussed in Chapter 4.2.3.2.4 of the Draft EIS. Mittal will provide compensatory wetland mitigation at a 1:1 ratio by debiting the final 103.6 acres of wetland mitigation bank credits that it owns in Aitkin County, Minnesota. In addition, Mittal is required to prepare and submit to the Corps a compensatory wetland mitigation plan to provide the additional needed compensation for the remaining 19.28 acres of wetland impact. After the mitigation plan is approved by the Corps, Mittal will be required to execute the plan. The plan will need to be submitted to the Corps by the end of year 6, or at least one year before the final 19.28 acres of wetland impacts would occur, whichever is sooner.

PUBLIC INTEREST FACTORS MERITING SPECIAL CONSIDERATION.

Navigation. (0)

Endangered species. D(0) P(A) Endangered Species Act species in the project area include bald eagles, gray wolf, and Canada lynx. The bald eagle may be affected, but is not likely to be adversely affected by the project. The gray wolf and the Canada lynx would be adversely affected by the loss of approximately 900 acres of forested habitat and by the construction and use of the new and existing haul roads. The project site is not within any designated critical habitat for the gray wolf or the Canada lynx. As the Federal lead, the Corps prepared and submitted a Biological Assessment (BA) to the USFWS to request formal consultation for the gray wolf and the Canada lynx. A biological opinion (BO) was received from the USFWS on February 21, 2007 (see Appendix D of the ROD). The USFWS concurred with the Corps determination of “may affect, not likely to adversely affect” for the bald eagle. The USFWS believes that no more than one gray wolf and one Canada lynx will be incidentally taken once every twelve and sixteen years, respectively, as a result of the proposed action. One reasonable and prudent measure and two associated terms and conditions were required by the

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USFWS. Those terms and conditions have been incorporated into special permit conditions for the East Reserve project individual permit. The special permit conditions are designed to minimize the impact of incidental take.

Historical/archaeological. (0) A Phase I archaeological assessment and a literature search for historic mining landscapes were conducted for the East Reserve project site. Based upon these studies, it was concluded that the East Reserve project area has no potential to contain important data that can be preserved or recovered by archaeological methods. In addition, with the absence of any historic mining-related structures at the adjacent Belgrade Mine and the general transformation of individual mines within the project area into a single water-filled pit surrounded by stockpiles of unknown date, there appear to be no features that would warrant further research focused on a potential NRHP-eligible historic mining landscape.

Wild and scenic rivers. (NA) None are present in the area.

Tribal Trust resources. (0) The 1854 Treaty provides signatory Native American tribes the right to hunt, fish, and gather on public lands within the ceded territory specified in the treaty. The East Reserve project site is within the ceded territory of the 1854 Treaty. The surface ownership of the footprint area of the East Reserve project is privately owned except for two parcels; the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 9, T. 58 N., R. 16 W. (40 acres), and the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 9, T. 58 N., R. 16 W. (20 acres), which are tax forfeit lands owned by the State of Minnesota. There are no State of Minnesota public waters within the footprint of the East Reserve project. Therefore, the only public lands within the Project footprint that may be open to Native American tribes for hunting, fishing, and gathering are the 40 acre and 20 acre parcels defined above. Mittal is proposing to purchase or lease the two parcels from the State. The removal of these parcels from public ownership has not been shown to be a significant loss for tribal hunting, fishing, and gathering rights.

State listed impaired (Section 303(d)) waters. (0) None are present in the area.

Section 176(c) of the Clean Air Act General Conformity Rule Review.

The proposal has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not result in an increase of criteria pollutant emissions compared to the existing taconite mining project at Mittal's Laurentian pit because mining at the Laurentian pit will be phased out as mining at the East Reserve site is phased in. Therefore, a conformity determination is not required as provided in 40 CFR Part 93.153(c) (2) (ii).

THE ENVIRONMENTAL PROTECTION AGENCY'S 404(B)(1) GUIDELINES.

As explained above, the discharge of dredged or fill material will be evaluated in accordance with guidelines developed by the EPA. The guidelines are found at Title 40, Code of Federal Regulations, Part 230.

Testing.

The Section 404(b)(1) guidelines require testing of the extraction site for contaminants except under certain circumstances. These include the existence of prior test results, scientific research and/or experience that indicates that contaminants are not present in the material to be discharged. Testing may also be omitted if the discharge site is adjacent to the extraction site and subject to the same sources of contaminants, and materials at the two sites are substantially similar. Testing may also be omitted if constraints are available to reduce contamination to acceptable levels, and if the potential discharger is willing and able to implement such constraints. In this case, testing is not required because the discharge site is adjacent to the extraction site.

Technical Evaluation Factors.

In making our findings on compliance with the Section 404(b)(1) guidelines, we have considered the potential impacts of the project (and alternatives, if any) on the physical and chemical characteristics of the aquatic ecosystem. These characteristics are listed in Subparts C - F of the guidelines, 40 CFR Part 230.20 - 230.54, as found on pp. 85350 - 85354 of the Federal Register, Vol. 45, No. 249. The characteristics include substrate, suspended particulates/turbidity, water, current patterns and water circulation, normal water fluctuations, salinity gradients, threatened and endangered species, fish, crustaceans, mollusks, and other aquatic organisms in the food web, other wildlife, sanctuaries and refuges, wetlands, mud flats, vegetated shallows, riffle and pool complexes, municipal and private water supplies, recreational and commercial fisheries, water-related recreation, aesthetics, parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves.

Section 404(b)(1) compliance summary matrix.

P = Proposal. D = No action (denial). A1, A2 = Additional alternatives, if any. Where only a P is shown, it indicates that all alternatives meet compliance criteria for that item. An unknown is a noncompliance; this will be designated with a U in the DOES NOT COMPLY column.

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	MEETS CRITERIA	DOES NOT COMPLY
1. The applicant must overcome the presumption that a practicable, less environmentally damaging alternative site, outside special aquatic sites, exists. <u>If the project is water dependent, OR is not in a special aquatic site, enter only N/A (not applicable).</u>	P	D
2. There must be no alternative that is practicable, is less damaging to the aquatic ecosystem, and has no other significant, adverse environmental effects.	P	D
3. The discharge must not violate state water quality standards or Clean Water Act Section 307 toxic effluent standards or bans.	D, P	
4. The project must not jeopardize the continued existence of an endangered species.	D, P	
5. The project must not cause significant adverse effects on municipal water supplies, plankton, fish, shellfish, wildlife, special aquatic sites, or other aspects of human health or welfare.	D, P	
6. The project must not cause significant adverse effects on life stages of aquatic life and other wildlife dependent on aquatic ecosystems.	D, P	
7. The project must not cause significant adverse effects on ecosystem diversity, productivity, or stability.	D, P	
8. The project must not cause significant adverse effects on recreational, esthetic or economic values.	D, P	
9. All appropriate and practicable steps, to minimize potential adverse effects of the discharge on the aquatic ecosystem, must be taken.	D, P	

OTHER AUTHORIZATIONS.

Water-quality certification: Waived by MnPCA.

State and/or local authorizations: See Chapter 1.7 of the Draft EIS.

PART III - SUMMARY AND STAFF RECOMMENDATION

ANALYSIS OF IMPORTANT ISSUES REVEALED DURING THE PUBLIC INTEREST REVIEW.

GENERAL EVALUATION.

The relative extent of the public and private need for the proposed work.

Moving mining activities to the East Reserve would facilitate the wise use of natural resources. The remaining ore in the Laurentian Mine is of a quality too low for efficient use at the Minorca taconite processing facility. Blending higher quality ore from the East Reserve would allow for use and processing of low grade ore from the Laurentian Mine. Without a higher grade ore to mix to improve the production efficiency, some low grade Laurentian ore would end up being left in the ground and the resource would go unused. The East Reserve would be used to continue taconite processing at the Minorca processing plant at the current rate. The effort to extend the production life of this facility would maintain and create various economic benefits, such as employment, and would contribute directly to domestic steel production.

The practicability of using reasonable alternative locations and methods to accomplish the objective of the structure or work.

Mining of the East Reserve taconite ore deposit must be conducted where the ore is located at the East Reserve site. The proposed open pit mining method is the only practicable alternative to mine the East Reserve taconite ore deposit. Stockpile footprint alternatives were considered, and the proposed stockpile footprints were developed to minimize direct impacts to wetlands by creating two stockpile areas to maintain a drainageway and adjacent wetlands between the stockpiles instead of creating one large stockpile area. The haul road alignment was selected to minimize the area of wetland crossings.

The extent and permanence of the beneficial and detrimental effects that the proposed structure or work is likely to have on the public and private uses to which the area is suited.

The project would result in two permanent mine pits that would fill with water to become deep water areas. In addition, two permanent stockpile areas would be created north of the two mine pits. Stockpile reclamation would be done in accordance with Minnesota Rules 6130 and in the spirit of the Laurentian Vision. If in-pit stockpiling can be incorporated into the project, the footprint of the stockpile areas can be minimized, and the backfilled portions of the mine pit can be reclaimed as shallow water habitats for aquatic resources and potential wetland mitigation for other project impacts. Permanent loss of wetland areas will be mitigated through debiting of 103.6 acres of wetland credits owned by the permittee in a wetland mitigation bank in Aitkin County. In addition, the

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permittee is required to conduct compensatory wetland mitigation for an additional 19.28 of wetland impacts. The compensatory wetland mitigation will provide long-term benefits.

STAFF RECOMMENDATION. Based on an evaluation of all data submitted or gathered during the public interest review, it is the recommendation of the Regulatory Branch that an individual permit with special conditions be granted for the proposed East Reserve project.

March 1, 2007 Jon K. Ahlness
Date Jon K. Ahlness
Project Manager

3/2/07 Ralph J. Augustin
Date Ralph J. Augustin
Chief, Minnesota Permit Section

PART IV - FINDINGS AND DECISION OF THE DISTRICT ENGINEER

I have considered the foregoing facts, analysis, and recommendation. The following are my views on this permit application:

FINDING OF NO SIGNIFICANT IMPACT.

Having reviewed the information provided by the applicant, the Draft EIS, the Final EIS, the comments submitted by interested parties, and the environmental assessment contained in this document, I find that this permit action will not have a significant impact on the quality of the human environment.

SECTION 404(B)(1) COMPLIANCE/NON-COMPLIANCE DETERMINATION.

The discharge complies with the guidelines, with the inclusion of appropriate and practicable conditions to minimize pollution or other harmful impacts to the affected ecosystem.

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PUBLIC HEARING REQUEST.

No public hearing request was received. A public meeting was conducted on October 12, 2006, in Biwabik, Minnesota during the public comment period for the Draft EIS. The purpose of the public meeting was to provide information to the public regarding the project and to obtain public comment regarding the project and the Draft EIS.

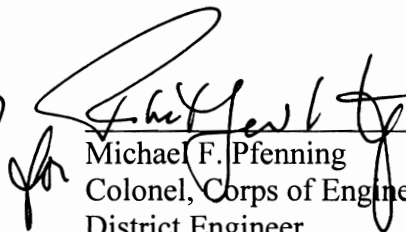
DECISION.

I have reviewed and evaluated, in light of the overall public interest, the documents and factors concerning this permit application as well as the stated views of other interested agencies and the concerned public. In doing so, I have considered the possible consequences of this project in accordance with regulations published in 33 CFR Part 320 to 330 and 40 CFR Part 230. I find that issuance of a Department of the Army permit (with special conditions):

 X would not be contrary to the public interest.

 would be contrary to the public interest.

Mar 5, 2007
Date


Michael F. Pfenning
Colonel, Corps of Engineers
District Engineer



US Army Corps
of Engineers
St Paul District

APPLICANT: Mittal Steel USA –
Minorca Mine Inc.
(formerly Ispat Inland
Mining)

Public Notice

ISSUED: September 28, 2006

EXPIRES: October 30, 2006

REFER TO: MVP-2005-110-JKA

SECTION:404 - Clean Water Act

1. APPLICATION FOR PERMIT TO discharge fill material into wetlands adjacent to an unnamed tributary to the Embarrass River and into wetlands adjacent to an unnamed tributary to the Pike River to facilitate the construction and operation of an open pit taconite mine in a deposit known as the East Reserve located between Biwabik and McKinley in St. Louis County, Minnesota.

2. SPECIFIC INFORMATION.

APPLICANT'S ADDRESS: Mittal Steel USA – Minorca Mine Inc.
5950 Old Highway 53
P.O. Box 1
Virginia, MN 55792

AGENT: Barr Engineering Company
4700 West 77th Street
Minneapolis, MN 55435-4803

PROJECT LOCATION: The proposed project site (including the mining area, stockpile area, and haul road) is located in Sections 3, 4, 5, 7, 8, 9, and 10, T. 58N., R. 16W., and Section 12, T. 58N., R. 17W., St. Louis County, Minnesota. The approximate UTM coordinates are Zone 15, North 5264000, East 545800.

DESCRIPTION OF PROJECT: The applicant proposes to construct and operate a new taconite mine, consisting of two conventional open pits, in a deposit known as the East Reserve. The taconite ore would be hauled by truck to the Mittal Steel USA – Minorca Mine Inc. (Mittal) currently permitted and operating Minorca taconite processing facility north of Virginia, Minnesota, where the ore would be processed into taconite pellets. Tailing waste would be disposed of in Mittal's currently permitted and operating Minorca and Upland tailings basins. The taconite pellets would be shipped by rail to Two Harbors, Minnesota for shipment to a steel mill via the Great Lakes. Mining of the East Reserve deposit would gradually replace mining at Mittal's nearby Laurentian Mine, which is nearing the end of its ore reserves.

The U.S. Army Corps of Engineers (Corps) and the Minnesota Department of Natural Resources (MnDNR) have prepared a joint federal/state Draft Environmental Impact Statement (DEIS) for the proposed project. The DEIS is currently available for public review and comment. The Corps has issued a separate public notice regarding the availability of the DEIS and a public meeting regarding the DEIS to be conducted at the Biwabik City Hall in Biwabik, Minnesota from 5:30 p.m. to 7:00 p.m.

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on Thursday October 12, 2006. The Corps will not make a permit decision regarding this project until the Final Environmental Impact Statement (FEIS) has been completed and a Record of Decision (ROD) has been prepared.

Stripping, Overburden Removal, Mining, and Stockpiles – The East Reserve deposit would be mined by conventional open pit methods (including stripping, drilling, blasting, loading, and hauling) similar to those currently in use at other locations on the Iron Range. The combined area of the two proposed open pits would be 476 acres. Approximately 119,000,000 tons of ore would be mined over the estimated 18-year life of the mine. The East Reserve mine pits would be mined down to a final elevation of 1,197 feet above mean sea level, approximately 280 feet below the existing surface elevation.

Overburden ranges from five to 60 feet in depth and would be stripped using 20-cubic yard hydraulic excavators. The material would be loaded into 240 short ton trucks and hauled to waste stockpiles on the north side of the proposed mine pits. Approximately 17,000,000 cubic yards of overburden material would be stripped.

Waste rock and lean taconite would be drilled and blasted on a bench system. The benches would be between 18 and 50 feet in height, with an average bench height of 35 feet. Blast holes would be drilled using a 16-inch diameter rotary bit and patterns would be drilled on a 35.4-foot by 40.8-foot grid. Each blast pattern would consist of an average of 80 to 100 holes yielding an average of 400,000 long tons of broken material. Each hole would be set off individually using non-electric delays to minimize ground vibration and air shock. The waste rock and lean taconite would be loaded into trucks and hauled to separate stockpile areas north of the pits. Approximately 30,000,000 cubic yards of waste rock and lean taconite would be excavated.

Ore would also be drilled and blasted on a bench system. The benches would be between 18 and 50 feet in height, with an average bench height of 35 feet. Blast holes would be drilled using a 16-inch diameter rotary bit and patterns would be drilled on a 26-foot by 30-foot grid. Each blast pattern would consist of an average of 80 to 100 holes yielding an average of 220,000 long tons of broken ore. The ore would be loaded into 190-240 short ton production trucks using 19-cubic yard loaders. The ore would be hauled to the Minorca taconite processing facility.

Haul Roads – The mine plans include the construction of three haul roads: 1) the main haul road would connect the East Reserve mine pits to the existing haul road currently used to transport ore from the Laurentian Mine to the Minorca taconite processing plant; 2) one would connect the two East Reserve pits; and 3) one would connect the Laurentian East Stockpile #1 to the main haul road. The main haul road would be 1.9 miles long and approximately 180 feet wide.

Mine Site Drainage – Water pumped from the proposed mine pits would be discharged into either of two existing and abandoned open pit mines: the McKinley Pit or the Mary Ellen Pit. Overflow from the McKinley Pit would flow south to the Embarrass River via an unnamed stream (the Central Discharge Route). The Central Discharge Route currently carries periodic overflows from the McKinley Pit through an excavated channel and a large wetland to the point where the route joins the dewatering route for Mittal's currently operating Laurentian Pit. Overflow from the Mary Ellen Pit would flow south about four miles through a series of wetlands and natural streams (the East Discharge

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Route), where it would join with the Central Discharge Route. It is presumed that the East Discharge Route carries periodic overflows from the Mary Ellen Pit; however, no defined stream channel could be found leading out of the pit.

Closure and Post Closure Actions – Areas disturbed by the development of the East Reserve would be reclaimed soon after they become inactive. Stockpiles and roadbeds would be capped with a minimum of two feet of burden material. Grading and sloping would be done just prior to seeding to minimize erosion. All areas would be shaped as required. Fertilization would be done immediately before seeding to expedite vegetation growth and to minimize erosion. Herbaceous plants would be seeded using a hydro-seeder. Seed mixes would be designed to achieve early stabilization and long-term cover. Re-vegetation would be done to meet the requirements of Minnesota Rules 6130.4100.

QUANTITY, TYPE, AND AREA OF FILL: The proposed project would require dredging or discharging fill material into an estimated 93.91 acres of wetlands (direct impacts). A table is attached that lists the direct wetland impacts by acreage, wetland type, reason for impact, and major watershed. In addition, the project would indirectly impact another 28.97 acres of wetlands as a result of changes to watershed areas and groundwater drawdown.

VEGETATION IN AFFECTED AREA: The East Reserve site includes uplands, existing mine pits and lakes, and wetlands. Over one-fourth of the site has been disturbed by previous mining activities and related development. Mine related topographic and land surface features include old roads and railroad grades, mine pits and excavated areas, mine spoil stockpiles, and filled or graded lands where buildings or facilities were once present. Disturbances are also evident from the former town of Belgrade, which was removed in the 1950s. Many of these features have partially or mostly revegetated with natural cover. Nearly all of the upland habitat, both previously disturbed and undisturbed, shows evidence of having been subjected to timber production or is undergoing second growth of the woody tree species as it revegetates from the disturbances.

Upland habitats include shrub and second growth forest dominated with sapling and young aspen species (*Populus spp.*) paper birch (*Betula papyrifera*), hazelnut species (*Corylus spp.*), and occasionally other hardwood and conifer species that comprise nearly 40 percent of the site's habitat cover. Larger sized trees and more mature forest cover of the same species comprise nearly 30 percent of the site. Upland grassland communities have established on many of the disturbed land cover areas and collectively comprise over 15 percent of the project site. The grassland habitat includes smooth brome (*Bromus inermis*), reed canary grass (*Phalaris arundinacea*), tansy (*Tanacetum vulgare*), spotted knapweed (*Centaurea maculosa*), bluegrass (*Poa spp.*), and other grasses and herbs. Wetlands comprise nearly 10 percent of the habitat cover types on the site. The most common wetlands are shrub swamps (Type 6 wetlands) dominated by speckled alder (*Alnus rugosa*) and lesser amounts of willow species (*Salix spp.*). The next most common types of wetlands are shallow to deep marshes (Type 3, Type 4, or Type 5 wetlands).

SURROUNDING LAND USE: Abandoned open pit mines, waste rock and overburden stockpiles, and old tailings basins dominate the areas to the east, south, and southwest of the proposed project site. The lands north and west of the proposed project site are dominated by undeveloped upland wooded areas, wetland areas, and the Pike River. It is likely that the areas north and west of the proposed site have been used for logging and recreational purposes.

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THE FOLLOWING PRECAUTIONS TO PROTECT WATER QUALITY HAVE BEEN DESCRIBED BY THE APPLICANT: All work would incorporate stormwater management requirements as specified in the individual Industrial NPDES/SDS Permit and the General Stormwater Permit for Construction Activity. In addition, Mittal has proposed the following measures:

- * On-site refueling operations would be performed only by mechanics with two mobile fueling trucks. These individuals would be trained regarding spill prevention and would be present during the entire refueling operation.
- * Mittal is constructing a state-of-the-art refueling station at the Minorca taconite processing facility to handle fueling on the plant site and to fill all mobile fueling trucks. This would minimize exposure to fuel spills at the mine site.
- * Routine maintenance on the haul trucks would be performed at the Minorca taconite processing facility. Excavators and loaders would be maintained in the mine pits and malfunctioning equipment would be fixed under controlled conditions and using general maintenance practices (i.e. all liquids are collected and properly managed).
- * No bulk fuels or lubricants would be stored in the mine pits or along the haul routes.

PROPOSED COMPENSATORY WETLAND MITIGATION: The applicant has proposed to provide compensatory wetland mitigation at a 1:1 ratio through the use of the approximately 108 acres of wetland mitigation bank credits that it owns in Aitkin County, Minnesota. In addition, the applicant would prepare and submit to the Corps a compensatory wetland mitigation plan to provide the additional needed compensation. The 108 acres of bank credits would likely be sufficient to compensate for the approximately 51.2 acres of direct and 25.62 acres of indirect wetland impacts that would occur during the first five years of operation. However, Mittal's 108 acres of wetland bank credits would not be sufficient to compensate for the entire 122.88 acres of direct and indirect wetland impacts anticipated for the entire project. Therefore, Mittal would prepare submit a wetland mitigation plan to the Corps that would identify how it would provide compensation for the remaining wetland impacts. That plan would be submitted by the end of year 6, or at least one year before the final wetland impacts would occur, whichever is sooner.

3. REPLIES/COMMENTS.

Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant. Comments received will be used to prepare the FEIS.

Replies may be addressed to Regulatory Branch, St. Paul District, Corps of Engineers, 190 Fifth Street East, Suite 401, Saint Paul, MN 55101-1638.

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Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Jon K. Ahlness at the St. Paul office of the Corps, telephone number (651) 290-5381.

To receive Public Notices by e-mail, go to the St. Paul District web page at <http://www.mvp.usace.army.mil/> and sign up by clicking on Join Mailing List on the left side of the web site under Press Room.

4. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT.

St. Louis County is within the known range of the following Federally-listed threatened (T) and endangered (E) species:

<u>Species</u>	<u>Habitat</u>
Bald eagle (T)	Mature forest near water
Gray wolf (T)	Forested wild/semi-wild land
Canada lynx (T)	Boreal forest

This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the described work. The DEIS addresses potential impacts to threatened and endangered species.

5. JURISDICTION.

This project comes under the regulatory jurisdiction of the Corps of Engineers because wetlands that would be impacted are adjacent to unnamed tributaries to the Embarrass River and the Pike River. The Embarrass River is a tributary to the St. Louis River, which is a navigable water of the United States. The Pike River is a navigable water of the United States.

REGULATORY AUTHORITY: This application will be reviewed according to the provisions of Section 404 of the Clean Water Act. Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 Code of Federal Regulations 230).

THE APPLICANT HAS STATED THAT THE FOLLOWING STATE, COUNTY, AND/OR LOCAL PERMITS HAVE BEEN APPLIED FOR/ISSUED: See attached list.

6. STATE SECTION 401 WATER QUALITY CERTIFICATION.

Valid Section 404 permits cannot be issued for any activity unless state water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The state Section 401 authority in Minnesota is the Minnesota Pollution Control Agency (MPCA). The St. Paul District has provided this public notice and a copy of the applicant's Section 404 permit application form to the MPCA. If MPCA needs any additional information in order for the Section 401 application to be

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considered complete by MPCA, the MPCA has indicated that it will request such information from the applicant. It is the permit applicant's responsibility to ensure that the MPCA has received a valid, complete application for state Section 401 certification and to obtain a final Section 401 action from the MPCA.

The MPCA has indicated that this public notice serves as its public notice of the application for Section 401 water quality certification under Minnesota Rules Part 7001. The MPCA has also indicated that the Section 401 process shall begin to commence upon the issuance date of this public notice unless the MPCA notifies both the St. Paul District and the permit applicant to the contrary, in writing, before the expiration date of this public notice.

The MPCA has eliminated the staffing resources for the Section 401 certification program due to budgetary limitations. Due to staff reductions, MPCA is intending to waive many section 401 certification applications with limited exceptions but the MPCA reserves the right and authority to proceed differently if extreme or unique circumstances merit a different approach. In many cases, the waiver of 401 certification means that the MPCA has not reviewed federally permitted projects in detail for conformance with state water quality standards nor has the MPCA made a determination of the proposal's compliance with state water quality standards. This waiver action, however, will not exempt the applicant from the responsibility of complying with all applicable water quality standards and requirements as contained in Minn. R. ch. 7050 and all other applicable state rules regarding water quality. The applicant will need to make a self-determination of water quality compliance of their proposal. In the event of water quality violations caused by the applicant's project, enforcement action may be taken by the MPCA.

Any comments relative to MPCA's intention to waive Section 401 Certification for the activity proposed in this public notice may be sent to:

Minnesota Pollution Control Agency
Regional Environmental Management Division
Attention 401 Certification
520 Lafayette Road, North
St. Paul, Minnesota 55155-4194

The DEIS addresses potential impacts to water quality.

7. HISTORICAL/ARCHAEOLOGICAL.

This public notice is being sent to the National Park Service, the State Archaeologist, and the State Historic Preservation Officer to determine if there are known cultural resources which may be affected by the described work. Any unknown archaeological, scientific, or historical data could be lost or destroyed by the work described in the permit application. However, the latest version of the National Register of Historic Places has been consulted and no listed properties (known to be eligible for inclusion, or included in the Register) are located in the project area. The DEIS addresses the potential for impacts to historical/archeological sites.

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8. PUBLIC HEARING REQUESTS.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served. A joint federal/state public meeting regarding the DEIS will be conducted at the Biwabik City Hall in Biwabik, Minnesota from 5:30 p.m. to 7:00 p.m. on Thursday October 12, 2006. The Corps has issued a separate public notice regarding the public meeting.

9. PUBLIC INTEREST REVIEW.

The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments will be used in the preparation of an EIS pursuant to the National Environmental Policy Act. A joint federal/state DEIS has been prepared and is available for public review and comment. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.


Robert J. Whiting
 Chief, Regulatory Branch

Enclosures

NOTICE TO EDITORS: This public notice is provided as background information and is not a request or contract for publication.

4.2.3.2 Proposed Action

4.2.3.2.1 Mine Pit and Stockpile Area

Direct impacts to wetlands would occur from mining and stockpiling of waste rock and other materials. Impacts to wetlands on the mine site were determined based on the projected limits of mining activities, including stripping and stockpiling. Table 4-6 provides a summary of direct impacts and includes the watershed, wetland type and area of wetland impact for each affected basin.

Wetland ID	Wetland Area (acres)	Wetland Type Circular 39 Classification	Direct Wetland Impact within Pit 1 (acres)	Direct Wetland Impact within Pit 2 (acres)	Direct Wetland Impact within East Reserve Stockpiles (acres)	Direct Wetland Impacts - Haul Roads (acres)	Total Direct Wetland Impacts (acres)	Watershed
1	20.19	6/8	0.00	0.00	0.00	2.15	2.15	Vermilion R.
2	19.87	2/3/4	0.00	0.00	0.00	1.81	1.81	Vermilion R.
3	0.43	6	0.00	0.00	0.00	0.00	0.00	St. Louis R.
4	0.93	7	0.00	0.08	0.00	0.00	0.08	St. Louis R.
5	0.63	2/7	0.00	0.00	0.00	0.00	0.00	St. Louis R.
6	0.07	3/2	0.00	0.07	0.00	0.00	0.07	St. Louis R.
7	0.42	2	0.00	0.42	0.00	0.00	0.42	St. Louis R.
8	33.48	6/7/3	0.00	4.56	0.00	0.00	4.56	St. Louis R.
9	8.78	3/2/6	0.00	0.00	0.00	0.00	0.00	St. Louis R.
10	27.66	6/3	0.00	0.00	0.00	0.00	0.00	St. Louis R.
11	9.95	2/3/6	0.00	0.00	0.00	0.00	0.00	St. Louis R.
12	0.16	6/2	0.00	0.00	0.00	0.00	0.00	St. Louis R.
13	0.82	3/6	0.00	0.00	0.82	0.00	0.82	St. Louis R.
14	0.26	2/6/3	0.00	0.00	0.00	0.00	0.00	St. Louis R.
15	12.25	3/2/6/7	5.54	0.00	0.00	0.19	5.73	St. Louis R.
16	2.90	6	0.00	0.00	2.90	0.00	2.90	St. Louis R.
17	18.88	4/5	0.00	0.00	18.88	0.00	18.88	St. Louis R.
18	7.78	6/5	0.00	0.00	7.69	0.00	7.69	St. Louis R.
19	2.50	7	0.00	0.00	0.07	0.00	0.07	St. Louis R.
20	0.14	6	0.00	0.00	0.14	0.00	0.14	St. Louis R.
21	3.77	7	0.00	0.00	0.02	0.00	0.02	St. Louis R.
22	0.94	2/7/3	0.00	0.00	0.94	0.00	0.94	St. Louis R.
23	9.44	6/7	0.00	0.00	8.80	0.00	8.80	St. Louis R.
24	4.69	3/6	0.00	0.00	4.69	0.00	4.69	St. Louis R.
25	0.47	6	0.47	0.00	0.00	0.00	0.47	St. Louis R.
26	1.93	6	1.93	0.00	0.00	0.00	1.93	St. Louis R.
27	0.84	6/2	0.84	0.00	0.00	0.00	0.84	St. Louis R.
28	0.56	6	0.00	0.56	0.00	0.00	0.56	St. Louis R.
29	2.17	2/3	0.00	2.17	0.00	0.00	2.17	St. Louis R.
30	0.29	2	0.00	0.29	0.00	0.00	0.29	St. Louis R.
31	0.32	2	0.00	0.32	0.00	0.00	0.32	St. Louis R.
32	0.66	6/7	0.00	0.66	0.00	0.00	0.66	St. Louis R.
33	1.85	6	0.00	1.85	0.00	0.00	1.85	St. Louis R.
34	3.43	3/6	0.00	0.00	3.43	0.00	3.43	St. Louis R.

Table 4-6
Direct Wetland Impact Summary

Wetland ID	Wetland Area (acres)	Wetland Type Circular 39 Classification	Direct Wetland Impact within Pit 1 (acres)	Direct Wetland Impact within Pit 2 (acres)	Direct Wetland Impact within East Reserve Stockpiles (acres)	Direct Wetland Impacts - Haul Roads (acres)	Total Direct Wetland Impacts (acres)	Watershed
35	0.15	2/6	0.00	0.00	0.15	0.00	0.15	St. Louis R.
36	11.56	3	1.19	0.00	10.38	0.00	11.57	St. Louis R.
37	8.89	5/6/3	0.00	0.00	0.45	0.00	0.45	St. Louis R.
38	9.32	3/2	0.00	0.00	0.00	0.00	0.00	St. Louis R.
39	0.18	3	0.00	0.00	0.00	0.18	0.18	St. Louis R.
40	0.09	2	0.00	0.00	0.00	0.09	0.09	Vermilion R.
41	0.22	3	0.00	0.00	0.22	0.00	0.22	St. Louis R.
42	0.52	6/7	0.00	0.00	0.52	0.00	0.52	St. Louis R.
43	84.05	3	0.00	0.00	0.00	0.00	0.00	St. Louis R.
44	6.15	6	0.00	0.00	0.00	0.00	0.00	St. Louis R.
45	0.85	6	0.00	0.00	0.85	0.00	0.85	St. Louis R.
46	1.45	2	0.00	1.44	0.00	0.00	1.44	St. Louis R.
47	19.72	6/7	0.00	0.00	0.28	0.13	0.41	St. Louis R.
48	8.32	6/7	0.00	0.00	0.00	2.62	2.62	Vermilion R.
49	1.47	2/6	0.00	0.00	0.00	0.00	0.00	Vermilion R.
50	0.35	3	0.00	0.35	0.00	0.00	0.35	St. Louis R.
52	1.82	3/2	0.00	1.30	0.00	0.00	1.30	St. Louis R.
53	1.68	6/7	0.00	1.03	0.00	0.00	1.03	St. Louis R.
54	0.13	6/3	0.00	0.13	0.00	0.00	0.13	St. Louis R.
55	0.31	3/6	0.00	0.31	0.00	0.00	0.31	St. Louis R.
Total	356.69		9.97	15.54	61.23	7.17	93.91	

Direct Impacts to Wetlands

A total of 93.91 acres of direct impact to wetlands would occur from implementation of the proposed project as shown on **Figure 4-3**. A total of 87.24 acres of direct wetland impact would occur to 39 wetlands in the St. Louis River Watershed and 6.67 acres of impact would occur to four wetlands in the Vermilion River Watershed. A total of 9.97 acres of unavoidable wetland impacts will result from overburden stripping and mining in the East Reserve Pit #1 and 15.54 acres of impacts within the East Reserve Pit #2. Activities in the stockpile area would impact 61.23 acres of wetlands. A total of 7.17 acres of wetland impacts are anticipated as a result of haul road construction.

These impact areas reflect efforts to avoid and minimize wetland impacts to the greatest extent practicable. Avoidance and minimization efforts included:

- The stockpile area was modified to avoid work in areas with wetlands and was divided into two separate stockpiles to allow the natural drainage to continue from north to south.
- Alternative routes for the proposed haul road were considered. The alternative alignment for the haul road would have slightly greater impacts (7.36 acres) than to the proposed alignment (7.17 acres).

LIST OF PERMITS REQUIRED

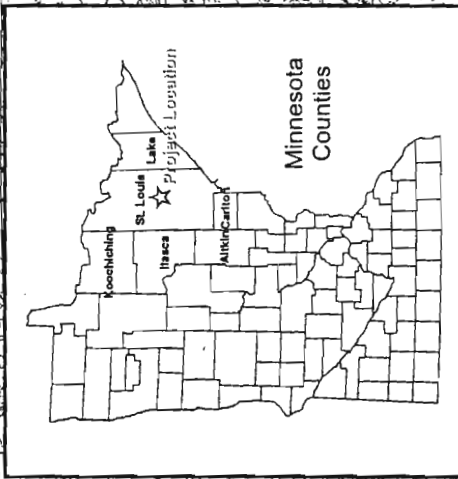
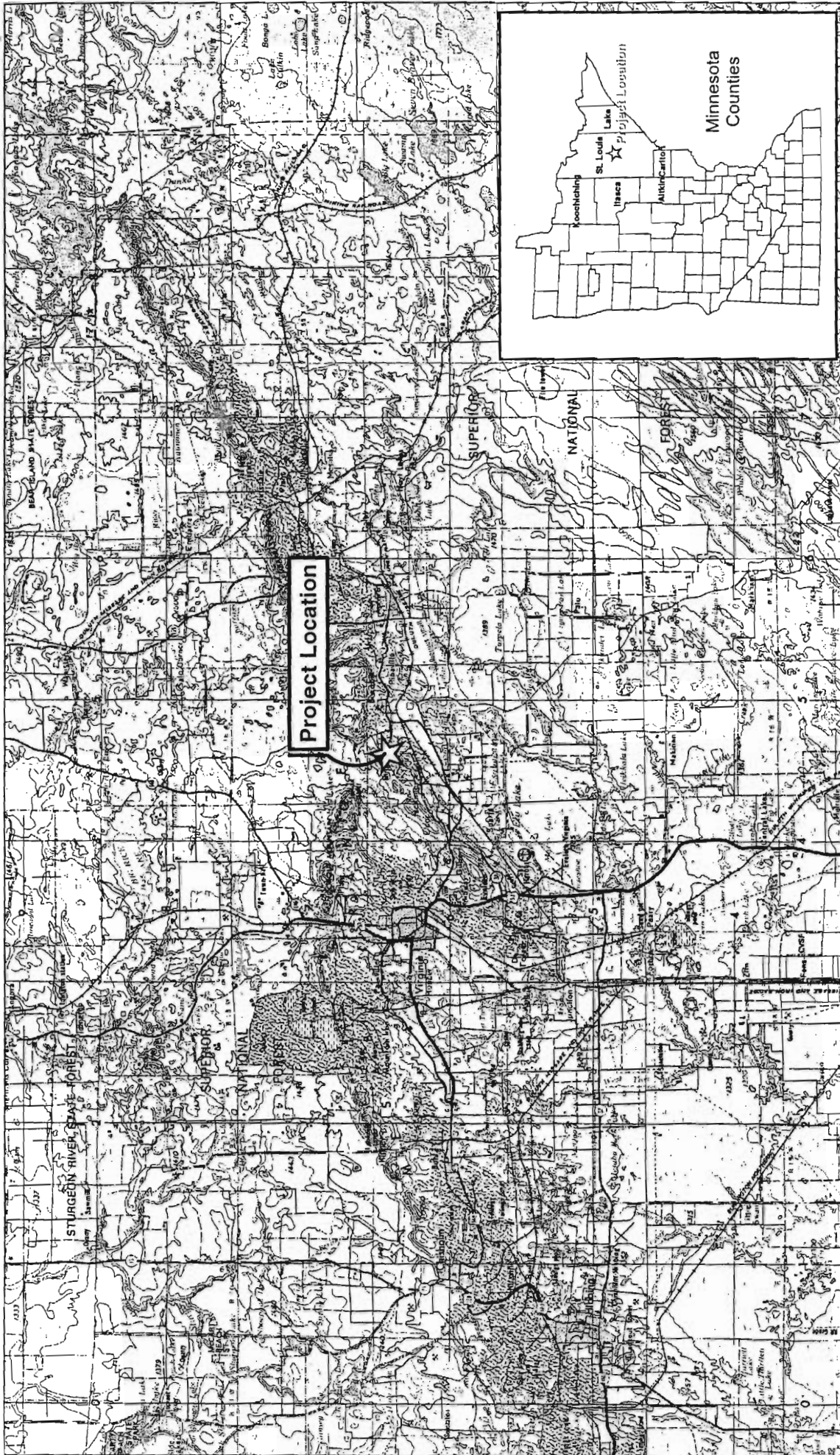
Unit of Government	Type of Application	Status
Minnesota Department of Natural Resources	Permit to Mine	
Minnesota Department of Natural Resources	Appropriations permit for pits and tailings basins, and mine dewatering	
Minnesota Department of Natural Resources	Dam Safety Permit Amendment	
Minnesota Department of Natural Resources	Permit for work in protected waters, possible modifications and diversions of local streams	
Minnesota Department of Natural Resources	Permit for wetlands modifications under Wetland Conservation Act (as part of Permit to Mine)	
Minnesota Department of Natural Resources	Water appropriations permit for potable water well for mine site administration building	
Minnesota Department of Natural Resources	Burning Permit (possibly needed for construction or land clearing)	
Minnesota Pollution Control Agency	Minnesota Air Emissions Permit	
Minnesota Pollution Control Agency	SDS/NPDES permit for discharge of mine dewatering water	
Minnesota Pollution Control Agency	SDS/NPDES permit for discharge to tailings basins	
Minnesota Pollution Control Agency	SDS/NPDES permit for stormwater discharge	
Minnesota Pollution Control Agency	Minnesota Waste Tire Storage Permit	
Minnesota Pollution Control Agency	General Storage Tank Permit (fuel tanks)	
Minnesota Department of Health	Radioactive Material Registration (for low-level radioactive materials in measuring instruments)	
U.S. Army Corps of Engineers	Section 404 Permit for Wetland Impacts	
Minnesota Department of Health	T&E Species Taking Permit (possible)	
Minnesota Department of Health	Permit for Non-Community Public Water Supply System (serving an average of at least twenty-five individuals daily at least 60 days out of the year) and wellhead protection plan	
Minnesota Department of Health	Notification of Water Supply Well Construction	
Minnesota Department of Health	Permit for Public On-site Sewage Disposal System	
St. Louis County	Grading and Building Permits (possible)	

I hereby notify the recipients of this form of the project proposed herein and request that I be advised of any permits or other determinations concerning this project that I must obtain. I understand that proceeding with work before all required authorizations are obtained may subject me to Federal, State, and/or local administrative, civil and/or criminal penalties.

DATE: _____

Signature of Person Proposing Project or Agent _____

< < < PLEASE CAREFULLY READ AND COMPLETE BACK OF FORM > > >



Mittal Steel USA
Minorca Mine
East Reserve - EIS

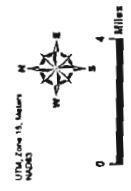
Legend



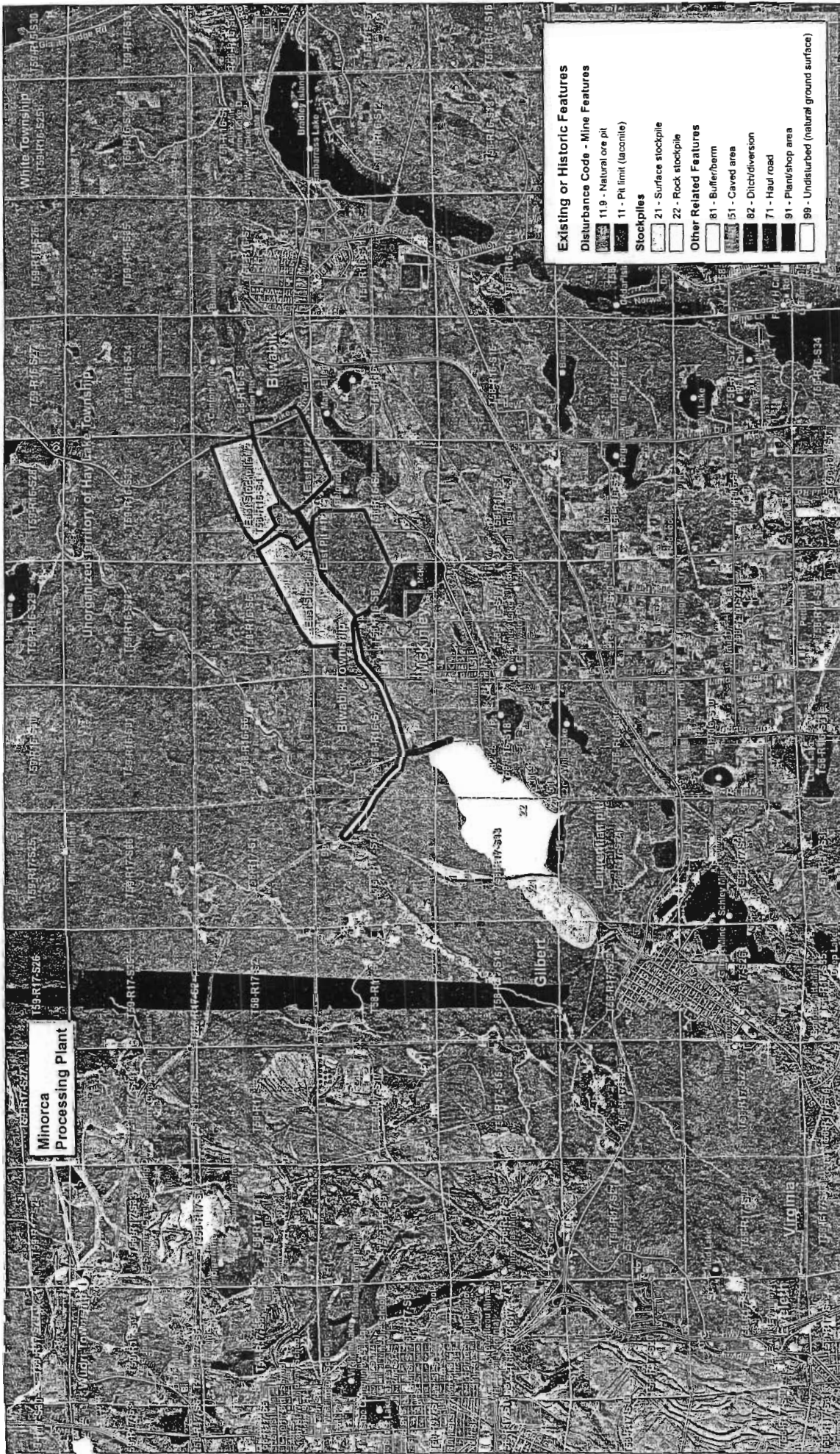
Project Location

August 2006

Figure 1-1
Project Location Map



Source: USGS, and MNR.
© 2006 MNR



State of Minnesota
DEPARTMENT OF COMMERCE

Mittal Steel USA
Minorca Mine
East Reserve - EIS

August 2006

Figure 1-2
Existing Mittal
Mining Facilities

PLSS Sections (T-R-S)

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- Existing or Historic Features**
- Disturbance Code - Mine Features**
- 11.9 - Natural ore pit
 - 11.11 - Pit limit (taconite)
- Tailings Basin**
- 31 - Tailings basin
- Stockpiles**
- 24 - Mixed stockpile
 - 22 - Rock stockpile
 - 21 - Surface stockpile
- In-pit Stockpiles**
- 13 - Rock in-pit stockpile
- Other Related Features**
- 81 - Buffer/berm
 - 51 - Caved area
 - 82 - Ditch/diversion
 - 71 - Haul road
 - 91 - Plant/shop area
 - 41 - Reservoir/settling basin
 - 99 - Undisturbed (natural ground surface)

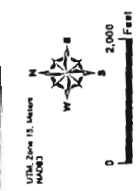



Figure 2-1
Proposed
Project Site

Source: MICHIGAN, MINNAPAC, LUCAS, LAMC, BIRN, and SEDL
© 2006 SEDL

- Legend**
- Proposed Project Features**
- Stockpiles
 - Pits
 - Main Haul Roads
- Possible Discharge Routes**
- East Discharge Route
 - West Central Discharge Route
- Laurentian Pit**
- Existing Roads**
- Streams
- Geographic Names**
- Municipal Boundaries
 - Civil Township Boundaries



Mittal Steel USA
Minorca Mine
East Reserve - EIS

August 2006



Maitai Steel USA
Minorca Mine
East Reserve - EIS

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Legend

- Delineated Wetlands
- Welland Delineation GPS Points
- Soil Boring

- Stockpiles
- Pits
- Main Haul Roads

Proposed Project Features

- Major Watershed Boundary
- Subwatershed Boundary

- Geographic Names
- Existing Roads
- Streams


- Municipal Boundaries
- Civil Township Boundaries

**Figure 3-7
Wetlands on
Mine Site**

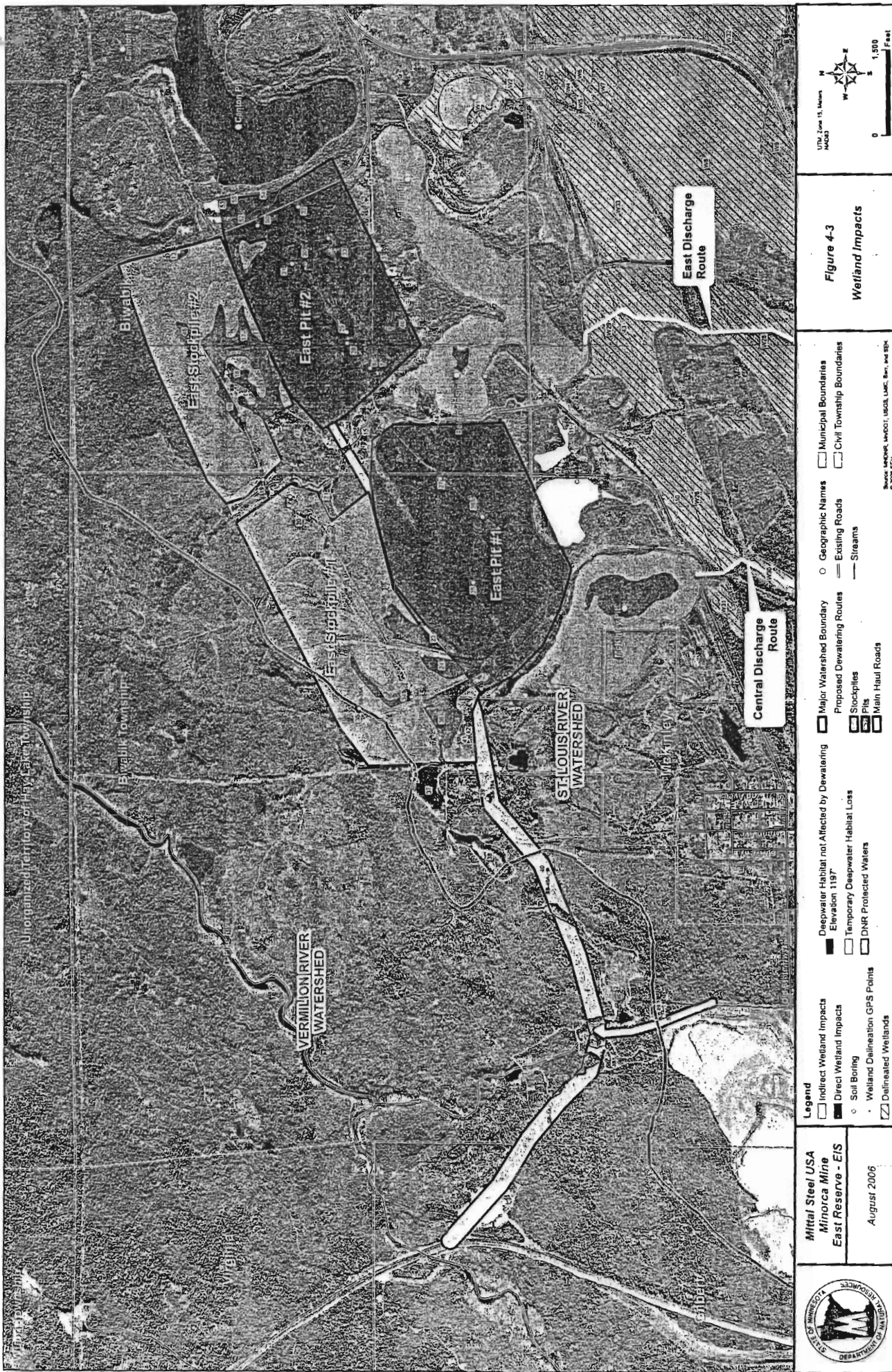


Source: Maitai Steel, USGS, LAMC, BLM, and BLM
© 2006 BLM



	<p>Mittal Steel USA Minorca Mine East Reserve - EIS</p>	<p>Legend</p> <ul style="list-style-type: none"> Proposed Dewatering Routes Welland Field Water Quality Locations Stream Gauging Locations 	<p>Proposed Project Features</p> <ul style="list-style-type: none"> Stockpiles Pits Main Haul Roads 	<p>Delineated Wetlands</p> <ul style="list-style-type: none"> DNR Protected Waters 	<p>Geographic Names</p> <ul style="list-style-type: none"> Existing Roads Streams 	<p>Municipal Boundaries</p> <ul style="list-style-type: none"> Civil Township Boundaries 	<p>Figure 3-8</p> <p>Wetlands Along Potential Dewatering Routes</p>	<p>UTM, Zone 18, NAD83</p> <p>0 3,000 Feet</p>
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